707.

SUPREME COURT OF THE UNITED STATES.

No. 120.

THE AGRICULTURAL BANK OF MISSISSIPPI AND OTHERS, PLAINTIFFS IN ERROR,

vs.

CHARLES RICE AND MARY HIS WIFE, AND MARTHA PHIPPS.

IN ERROR TO THE CIRCUIT COURT U. S. SOUTHERN DISTRICT OF MISSISSIPPI.

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J. & G. S GIDEON, printers.

DOE, on demise of the heirs of A. Bowers, dec'd,
vs.
THE AGRICULTURAL BANK OF MISSISSIPPI et al.

Pleas before the honorable Samuel J. Gholson, district judge of the United States, at a circuit court of the United States, held at the town of Jackson, in and for the ninth circuit, and southern district of Mississippi, at the May term, in the year of our Lord one thousand eight hundred and forty-three.

Be it remembered that heretofore, to wit, at a circuit court of the United States held as aforesaid, on the first Monday of May, in the year of our Lord one thousand eight hundred and forty, came John Doe, lessee of the heirs of Adam Bowers, deceased, by Howell, and Johnston, and Prentiss, their attorneys, and filed in said court their certain bill of trespass and ejectment against Richard Roe, with notice to the Agricultural Bank of Mississippi et al.; which said declaration and notice thereon written, and marshal's return thereon, are in the words and figures following, to wit:

THE UNITED STATES OF AMERICA,

Southern district of Mississippi:

Circuit court, ninth judicial circuit, to May term, 1840.

Richard Roe was attached to answer John Doe, that whereof he, the said Richard Roe, with force and arms, &c., entered into one acre of land, with the rights, members, and appurtenances thereunto belonging, and also into one messuage, known by the name of the City Hotel, in the city of Natchez, five houses, one stable, five out-houses, situate and being in the district aforesaid, which Charles Rice, in right of his wife Mary Rice, and Mary Rice, who is one of the heirs of Adam Bower, deceased, and who are citizens of the State of Louisiana, had demised to the said John Doe, for a term which is not yet expired, and ejected him from his said farms. And also, wherefore, the said Richard Roe, with force and arms, &c., entered into one other acre of land, with the rights, members, and appurtenances thereunto belonging, and also one other messuage, five houses, one stable, five out-houses, situate and being in the district aforesaid, which Martha Phipps, who was Martha Bower, one of the heirs of Adam Bower, deceased, and who is a citizen of the State of Louisiana, had demised to the said John Doe, for a term which is not yet expired, and ejected him from his said several farms, and other wrongs to the said John Doe then and there did, to the great damage of the said John Doe, and against the peace and dignity of the State of Mississippi; and thereupon the said John Doe, by his attorney, complains that, whereas the said Charles Rice, in right of his wife

Mary, and Mary Rice, who was Mary Bower, one of the heirs of Adam Bower, deceased, citizens as aforesaid, on the first day of December, in the year of our Lord one thousand eight hundred and thirty-nine, at the district aforesaid, had demised to the said John Doe, the said lands and tenements, with the appurtenances first above mentioned; to have and to hold the same to the said John Doe, and his assigns, from the first day of December, in the year aforesaid, for, and during, and unto the full end and term of twenty years, from thence next ensuing, and fully to be complete and ended. And also that, whereas the said Martha Phipps, who was Martha Bower, one of the heirs of Adam Bower, deceased, and who is a citizen of the State of Louisiana, on the said first day of December, in the year aforesaid, at the county and district aforesaid, had demised to the said John Doe the said lands and tenements, with the appurtenances secondly above mentioned, to have and to hold the same to the said John Doe, and his assigns, from the said first day of December, in the year aforesaid, for, and during, and unto the full end and term of twenty years thence next ensuing, and fully to be complete and ended; by virtue of which said several demises, the said John Doe entered into the said several lands and tenements, first and secondly above mentioned, with the appurtenances, and became and was thereof possessed of the said several terms, &c., to him respectively granted as aforesaid; and the said John Doe, being so thereof possessed, the said Richard Roe, afterwards, to wit, on the fourth day of December, in the year aforesaid, with force and arms, &c., entered into the said lands and tenements, with the appurtenances, first and secondly above mentioned, in which the said John Doe was so interested, in manner and for the several terms aforesaid, which are not yet expired, and ejected the said John Doe from his said several farms, and other wrongs to the said John Doe then and there did, to the great damage of the said John Doe, and against the peace and dignity of the said State of Mississippi; wherefore the said John Doe sayeth that he is injured, and hath sustained damage, to the value of five hundred dollars; and therefore he brings his suit, &c.

HOWELL & JOHNSTON,
Att'ys for plff.

To the president, directors, and company of the Agricultural Bank of Mississippi, and Mr. Noah Barlow.

I am informed that you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or to some part thereof, and I being sued in this action as casual ejector only, and having no claim or title to the same, do advise you to appear in the circuit court of the United States of America, for the ninth judicial circuit, southern district of Mississippi, at the next term thereof, and on the first day of the same, by some attorney of that court, and then and there, by rule of the court, to cause yourself

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Mary, and Mary Rice, who was Mary Bower, one of the heirs of Adam Bower, deceased, citizens as aforesaid, on the first day of December, in the year of our Lord one thousand eight hundred and thirty-nine, at the district aforesaid, had demised to the said John Doe, the said lands and tenements, with the appurtenances first above mentioned; to have and to hold the same to the said John Doe, and his assigns, from the first day of December, in the year aforesaid, for, and during, and unto the full end and term of twenty years, from thence next ensuing, and fully to be complete and ended. And also that, whereas the said Martha Phipps, who was Martha Bower, one of the heirs of Adam Bower, deceased, and who is a citizen of the State of Louisiana, on the said first day of December, in the year aforesaid, at the county and district aforesaid, had demised to the said John Doe the said lands and tenements, with the appurtenances secondly above mentioned, to have and to hold the same to the said John Doe, and his assigns, from the said first day of December, in the year aforesaid, for, and during, and unto the full end and term of twenty years thence next ensuing, and fully to be complete and ended; by virtue of which said several demises, the said John Doe entered into the said several lands and tenements, first and secondly above mentioned, with the appurtenances, and became and was thereof possessed of the said several terms, &c., to him respectively granted as aforesaid; and the said John Doe, being so thereof possessed, the said Richard Roe, afterwards, to wit, on the fourth day of December, in the year aforesaid, with force and arms, &c., entered into the said lands and tenements, with the appurtenances, first and secondly above mentioned, in which the said John Doe was so interested, in manner and for the several terms aforesaid, which are not yet expired, and ejected the said John Doe from his said several farms, and other wrongs to the said John Doe then and there did, to the great damage of the said John Doe, and against the peace and dignity of the said State of Mississippi; wherefore the said John Doe sayeth that he is injured, and hath sustained damage, to the value of five hundred dollars; and therefore he brings his suit, &c.

HOWELL & JOHNSTON,
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To the president, directors, and company of the Agricultural Bank of Mississippi, and Mr. Noah Barlow.

I am informed that you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or to some part thereof, and I being sued in this action as casual ejector only, and having no claim or title to the same, do advise you to appear in the circuit court of the United States of America, for the ninth judicial circuit, southern district of Mississippi, at the next term thereof, and on the first day of the same, by some attorney of that court, and then and there, by rule of the court, to cause yourself

to be made defendant in my stead; otherwise I shall suffer judgment to be entered against me by default, and you will be turned out of possession. Dated this 19th day of February, A. D. eighteen hundred and forty.

Yours, &c. RICHARD ROE.

UNITED STATES OF AMERICA,
Southern district of Mississippi:

Personally appeared before the undersigned, commissioner of affidavits, &c., for said district, Anselm Lynch, deputy marshal for said district, who made oath that, on the 28th day of February, 1840, he delivered to Wm. Minor, President of the Agricultural Bank of Mississippi, and Noah Barlow, tenant in possession, true copies of the within declaration, and notice thereunder written.

ANS. LYNCH, *Deputy*,
For WM. M. GWIN, *Marshal.*

Sworn to and subscribed before me, this 12th day of March, 1840.

GEO. W. MILLER,
U. S. Commissioner.

And afterwards, to wit, at the said May term of the court aforesaid, to wit, on the seventh day of May, in the year of our Lord one thousand eight hundred and forty, came as well the plaintiffs, by their attorneys aforesaid, as the said Richard Roe, the casual ejector, and it is ordered, by consent of attorneys for both parties, that the president, directors, and company of the Agricultural Bank of Mississippi, and Noah Barlow, their tenant, be made defendant in the stead of the now defendant Roe, and receive declaration and ejectment for the premises in question, and forthwith plead thereto not guilty. And upon the trial of the issue confess lease, entry, and ouster, and insist upon the title only; otherwise, let judgment be entered for the plaintiffs against the now defendant Roe, by default.

EUSTIS & CHAPLAIN,
For defendant.

And the said defendants come and defend the force and injury, when, &c., and say that they are not guilty of the supposed trespass and ejectment above laid to their charge, in manner and form as the said plaintiffs have thereof complained against them; and of this they put themselves upon the country, &c.

EUSTIS & CHAPLAIN, *for defts.*

And the said plaintiffs do the like, &c.

HOWELL & JOHNSTON, *for plffs.*

And the cause was continued until the next term.

And afterwards, to wit, at the said May term of the court first aforesaid, to wit, on the twenty-fourth day of May, in the year of

our Lord one thousand eight hundred and forty-three, until which time this cause was legally continued, came as well the said plaintiffs, by their attorneys, as the said president, directors, and company of the Agricultural Bank of Mississippi, and Noah Barlow, defendants, by their said attorneys, and a jury being called, came, to wit: John W. King, Lewis Reno, W. A. McDougall, Wm. C. Page, Asa Tinnin, Warren P. Anderson, Benjamin Williams, Benjamin Albertson, Thomas Johnson, John L. McManus, W. J. McGuire, and John J. Poindexter, who, being empannelled, tried, and sworn to speak the truth upon the issue joined, do say upon their oaths, that the said defendants are guilty of the said trespass and ejectment in the said declaration mentioned, and of unlawfully withholding the two equal undivided third parts of the said premises, in the said declaration, from the said plaintiffs, to wit: two equal undivided third parts of all *third parts of all* that certain piece or parcel of land, situate in the city of Natchez, in the State of Mississippi, bounded as follows: fronting on Main street, between Canal and Wall streets, (formerly Front and Second streets,) beginning on Main street, at the corner of a lot owned by the heirs of Samuel Postlethwaite, on which a large new cotton warehouse has been erected; thence along the northwestern side of Main street, west, to the line of the lot bequeathed by Adam Bower, deceased, to his widow, now Mrs. Pendleton; thence north, along the eastern line of the said last mentioned lot, to the back line of the said premises, where the same bounds on the property formerly owned by Elijah Bell; thence along said last mentioned line, to the line of the lot belonging to the heirs of said Postlethwaite; and along said last mentioned line to the place of beginning, on Main street; and being the same property now known as the City Hotel, in Natchez. And that the said plaintiffs are well entitled to hold the said two equal undivided third parts of said premises in fee simple, as the said plaintiffs have within complained against them the said defendants; and they assess the damages, by reason of the trespass and ejectment aforesaid, to one cent.

Bill of exceptions tendered by the deft.

Be it remembered, that on the trial of this cause, and while the same was before the jury, the said plaintiffs, by their counsel, to maintain and prove the said issue on their part, gave in evidence, and proved that one Adam Bower, (now deceased,) in his lifetime previous to the year 1833, was seised in fee of a certain lot or parcel of land in the said declaration, and hereinafter described. That on the 16th April, 1833, the said Adam Bower, being so seised of said land, died, leaving three daughters, to wit: Martha Phipps, wife of William M. Phipps; Mary Haile, wife of William R. Haile; and Sarah Bower, a feme sole, his heiresses, who took and inherited under the last will and testament of the said Adam Bower, the said fee of the said land. That the said Martha, Mary, and Sarah, at the decease of the said Adam Bower, were infants under the age of

twenty-one years. That since the death of the said Adam Bower, the said William M. Phipps and William R. Haile have both departed this life, and that since the death of the said William R. Haile, Mary Haile, his widow, has intermarried with Charles Rice, one of the plaintiffs. That at the time of the commencement of this suit, the said defendants were in possession of said premises, holding the same adversely.

The plaintiffs' counsel here rested.

Whereupon, the counsel for the said defendants, to maintain and prove the said issue on their part, gave in evidence, that after the death of the said Adam Bower, and while the fee of the said land was still vested in the said Martha, Mary, and Sarah, the said Noah Barlow, and one Henry S. Holton, contracted with the said heirs and their husbands aforesaid, for the sale and purchase of the said lands, and in consideration that the said heirs would make and insure to them a good and valid title in fee simple to the said land, they agreed to give and pay to the said heirs for the same the sum of $40,000; $5,000 whereof should be paid in hand on the delivery of possession, and the residue should be secured to be paid in instalments, to be specified, in promissory notes, to be executed by the said Holton, and endorsed by the said Barlow, and by a mortgage on the said land. That the said Holton and Barlow, in pursuance of the said contract, paid the said $5,000 to the said heirs, and delivered to them 12 promissory notes for $2,916 66⅔ each, all bearing date the 16th day of April, 1835, and payable as follows: three of said notes in 12 months, three others in two years, the other three in three years, and three others in four years from the date thereof; all made by the said Henry S. Holton, and endorsed by the said Noah Barlow. And the said heirs, upon receipt of the said notes, and the said sum of $5,000, delivered to the said Henry S. Holton and Noah Barlow possession of the said land, with the tenements and appurtenances, and at the same time executed to the said Holton and Barlow a bond for title, in and by which said bond the said heirs agreed and bound themselves, and their heirs, to make, execute, and deliver, after duly acknowledging the same, a full and complete general warranty deed of all said premises and appurtenances, buildings and furniture, to the said Holton and Barlow, their heirs and assigns, thereby covenanting a good and indefeasible title to said lot of ground to said Holton and Barlow, their heirs and assigns, against all persons, as soon as a surveyor can be had to make a survey of the premises to ascertain the exact boundaries. That the said bond was executed by the said Sarah, as Sarah Gibson, and by her husband David H. Gibson, the said Sarah having intermarried with the said David H. Gibson, between the drafting of the said bond and its execution; which said bond is in the words and figures following, to wit:

Agreement entered into and executed this day of April, 1835, between William M. Phipps and his wife, William R. Haile and his wife, and Sarah Bowers, parties of the one part, and Noah

Barlow and Henry S. Holton, parties of the other or second part; the above named parties of the first part, for the consideration hereinafter named, agree this day to deliver to said parties of the second part full possession of the tenements, tavern, stables, and other buildings, occupied and owned by the late Adam Bower, and heretofore also occupied since his death by the said William M. Phipps, and the lot or parcel of ground upon which the same stands, being on the north side of Main street, between Canal and Wall streets, in said city of Natchez; and also the furniture, kitchen and household, as well as that about the stables, and belonging to and in said tavern, buildings, and said premises; and said parties of the first part do further, for the consideration hereinafter named, agree and bind themselves, and their heirs, to make, execute, and deliver, after duly acknowledging the same, a full and complete general warranty deed of all said premises and appurtenances, buildings and furniture, to said parties of the second part, their heirs and assigns, thereby conveying said lot of ground, appurtenances and buildings, and said furniture, and warranting a good and indefeasible title thereto to said parties of the second part, their heirs and assigns, against all persons, as soon as a surveyor can be obtained to make a survey of said premises, so as to ascertain the exact extent and boundaries of said premises. In consideration of which, said parties of the second part agree to pay this day to said parties of the first part five thousand dollars, and upon the execution and delivery of the said deed to them as aforesaid, they, the said parties of the second part, their executors or administrators, will execute and deliver to said parties their promissory notes for thirty-five thousand dollars, payable in one, two, three, and four years, in the following manner—to be secured by a mortgage executed by said parties of the second part, and their wives, on said premises, to wit:

WM. M. PHIPPS, [L. S.]
MARTHA PHIPPS, [L. S.]
W. R. HAILE, [L. S.]
MARY HAILE, [L. S.]
D. H. GIBSON, [L. S.]
SARAH GIBSON. [L. S.]

That the said bond, though apparently incomplete, was executed as complete, and the notes were secured by mortgage by said Holton and Barlow, according to said contract. That after the execution and delivery of said bond and notes, and when the said Holton and Barlow were in quiet possession of the premises, they handed said bond to their counsel, with instructions to have a deed drawn in compliance with said bond, and on or about the 14th September, 1835, received from their counsel an instrument in writing or deed, without examining the same, all parties supposing it to be correct, and in conformity with their directions; that the said deed

was executed and delivered on the said 14th Sept., 1835, by the said heirs and their respective husbands. And it was intended by said heirs to convey to said Holton & Barlow the complete title of the said heirs and their husbands in said land, which said deed is in the words and figures following, to wit:

"This indenture, made the 14th day of September, in the year of our Lord one thousand eight hundred and thirty-five, between William M. Phipps in right of his wife Martha, William R. Haile in right of his wife Mary, and David H. Gibson in right of his wife Sarah, legal heirs and representatives of Adam Bower, dec'd, of the county of Adams, and State of Mississippi, of the one part, and Noah Barlow and Margaret his wife, and Henry S. Holton and Theoda his wife, of the same place, of the other part, witnesseth: that the said parties of the first part, for and in consideration of the sum of forty thousand dollars, to them in hand paid by the said parties of the second part, at or before the sealing and delivering of these presents, the receipt whereof is hereby acknowledged, and the said parties of the second part, their heirs, executors, and administrators forever released therefrom, by these presents have granted, bargained, sold, conveyed and confirmed, and by these presents do grant, bargain, sell, convey, and confirm unto the said parties of the second part, their heirs and assigns forever, all that certain lot or parcel of ground situate in the city of Natchez, and State aforesaid, fronting on Main street, between what were, before the confusion of names produced by the wisdom of the city council, Front and Second streets, which said lot is bounded and described as follows, to wit: beginning on Main street, at the corner of a lot now owned by the heirs of Samuel Postlethwaite, on which a large new cotton warehouse has been erected by Harriett , along the northwestern side of Main street west, to the line of the lot bequeathed by Adam Bower, dec'd, to his widow, now Mrs. Pendleton; thence north, along the eastern line of said last mentioned lot, to the back line of the premises hereby conveyed, where the same bounds on the property of Elijah Bell; thence along said last mentioned line to the line of the lot belonging to the heirs of said Postlethwaite; and along said last mentioned line to the place of beginning on Main street; the lot hereby conveyed being the large tavern establishment occupied by said Bower in his lifetime, and since his death by the said William M. Phipps; also, all the household and kitchen furniture, and apparatus, and utensils, about said tavern, stables, or other buildings on said lot; together with all and singular the appurtenances, hereditaments, privileges, and advantages whatsoever unto the above described premises belonging, or in anywise appertaining; and also all the estate, right, title, interest, and property, and claim whatsoever, either at law or in equity, of them the said parties of the first part, of, in, and to the same; to have and to hold the above granted, bargained, and described premises, with the appurtenances, unto the said parties of

the second part, their heirs and assigns forever; and the said parties of the first part, for themselves, their heirs, executors, and administrators, do covenant, grant, promise, and agree, to and with the said parties of the second part, their heirs and assigns, that they, the said parties of the first part, and their heirs, the above described and hereby granted premises, and every part thereof, with the appurtenances, unto the said parties of the second part, and their heirs and assigns, against the said parties of the first part, and against all persons *or* claiming, or to claim said premises, or any part thereof, shall and will warrant, and by these presents forever defend.

In witness whereof, the said parties of the first have hereunto set their hands and seals, this day and year above written.

WM. M. PHIPPS, [L. S.]
MARTHA PHIPPS, [L. S.]
WILLIAM R. HAILE, [L. S.]
MARY HAILE, [L. S.]
DAVID H. GIBSON, [L. S.]
SARAH GIBSON. [L. S.]

Signed, sealed, and delivered in the presence of,
N. W. CALMES, *J. Peace.*

THE STATE OF MISSISSIPPI, *Adams county:*

Personally appeared before the undersigned, justice of the peace for said county, William M. Phipps and Martha his wife, and William R. Haile and Mary Haile his wife, and David H. Gibson and Sarah Gibson his wife, and acknowledged that they signed, sealed, and delivered the within deed on the day and year and for the purposes therein contained. And Martha Phipps, Sarah Gibson, and Mary Haile, wives of William M. Phipps, William R. Haile, and David H. Gibson, having been examined separate and apart from their husbands, and acknowledged that they signed, sealed, and delivered the same as their act and deed, free of fears, threats, or compulsion of their said husbands.

Given under my hand and seal, this 15th day of September, 1835.
N. W. CALMES, *J. P.*

Received for record, 15th Sept., 1835.
F. WOOD, *Clk.*
By S. WOOD, *D. clk.*

STATE OF MISSISSIPPI, *Adams county:*

I, Fleming Wood, clerk of the probate court for said county, do hereby certify, that the within deed is recorded in my office, in book W, of the record of deeds, pages 300 and 301.

Witness my hand and seal of office, this 16th day of September, anno domini 1835.

[L. S.]
F. WOOD, *Clk.*
By S. WOOD, *D. clk.*

That in the said deed, by a mistake of the draftsman, the said heirs, Martha, Mary, and Sarah were not named as grantors, but that only their several husbands are so named, although said deed is executed by said heirs and their husbands.

That on the 14th day of September, 1835, on the delivery of said deed, the said Holton and Barlow executed, acknowledged, and delivered to the said heirs and their several husbands, a deed of mortgage on said land, to secure the payment of said notes according to said contract, and the said notes and mortgage were accepted by said heirs and their husbands. That at the time of the marriage of the said Mary Haile with the said Charles Rice, in the year 1838, said Holton and Barlow were in quiet and peaceable possession of the said land, and ignorant of any objection to their title. That the buildings on said land, at the time of the purchase, having been destroyed by fire, the said Holton and Barlow rebuilt the same at an expense of $100,000, which improvements were made with the full knowledge of said heirs, and without any objection on their part. And that the said Martha Phipps and Mary Haile, now Mary Rice, by accepting and receiving payments of money from the said Holton and Barlow upon the said notes and mortgage, during the time between the death of the said Phipps and Haile, and the last marriage of the said Mary, and when the said Martha and Mary were of full age, which said payments were proved to have been made and received, have further ratified and confirmed the said bond and the said deed.

That said Holton and Barlow principally, by reason of such expenditures, became largely indebted to the Agricultural Bank and the Planters' Bank, two of the defendants, and to secure that indebtedness, the said Barlow, on the 5th May, 1838, executed to them a good and valid deed of mortgage, conveying to them his undivided interest in said premises.

That the said Holton, in February, 1839, sold and conveyed his interest in said premises to the said Demon B. Spencer, one of the defendants; that said Spencer, in consideration of the terms of his purchase from Holton, did, on the 27 July, 1839, convey the same, by a good and valid mortgage, to the said Planters' Bank.

That the said Agricultural Bank and the said Planters' Bank are now in possession of said premises as mortgagees, and by virtue of a good and valid quit claim deed from the said Sarah Gibson, and her husband David H. Gibson.

That the said Holton and Barlow, and those claiming under them, were unmolested in their possession, and unapprised of any supposed objection to their title. That they have paid the whole of said purchase money.

Which testimony, as set forth herein on both sides, was all the testimony in the cause.

The counsel for the said defendants here offered to read in evidence the said bond for title, and the said deed hereinbefore mentioned, in connection with the foregoing proofs.

But to the reading of the same in evidence the said counsel for the said plaintiffs objected, because he says, that at the days of the dates of the said bond and of the said deed, the said heirs, Martha, Mary, and Sarah, were under coverture, and were infants under the age of twenty-one years, so that the said bond and the said deed are absolutely void. The said judge did then and there declare and deliver his opinion, that the said objection, so taken by the said counsel for the said plaintiffs, ought to be allowed; that the said bond and the said deed ought not to be admitted in evidence, and did accordingly decide that the same should not be read in evidence on the part of the said defendants; to which said opinion of the said judge, the said counsel for the said defendants did then and there, in due form of law, except, before the jury retired from their box, and prayed that the said exceptions might be signed, and sealed, and made a part of the record. And it is accordingly done.

S. J. GHOLSON. [L. S.]

May 24th, 1843.

Therefore it is considered by the court, that the said John Doe, lessee of Charles Rice, and Mary Rice his wife, and Martha Phipps, recover against the said president, directors, and company of the Agricultural Bank of Mississippi and Noah Barlow, his term yet to come of and in the two equal undivided third parts of the said premises in the said declaration mentioned, to wit: two equal undivided third parts of all that certain piece or parcel of land situate in the city of Natchez, in the State of Mississippi, bounded as follows: fronting on Main street, between Canal and Wall, (formerly Front and Second streets,) beginning on Main street, at a corner of a lot owned by the heirs of Samuel Postlethwaite, on which a large new cotton warehouse has been erected; thence along the northwestern side of Main street, west, to the line of the lot bequeathed by Adam Bower, deceased, to his widow, now Mrs. Pendleton; thence north, along the eastern line of said last mentioned lot, to the back line of the said premises, where the same bounds on the property formerly owned by Elijah Bell; thence along said last mentioned line to the line of the lot belonging to the heirs of said Postlethwaite; and along said last mentioned line to the place of beginning in Main street; and being the same property now known as the City Hotel, in Natchez; and the said one cent damages, by the jury in form aforesaid assessed, for his damages which he has sustained by reason of the trespass and ejectment aforesaid, and also his costs and charges by him about his suit in this behalf expended. And the said defendants, in mercy, &c.

From which judgment the said defendants by their attorney pray an appeal to the Supreme Court of the United States, which is

granted, upon their executing bond with J. P. Walworth and William Cannon as their security, conditioned according to law.

Circuit court, U. S.

UNITED STATES OF AMERICA,
Southern district of Mississippi:

I, William H. Brown, clerk of said circuit court, do hereby certify, that the foregoing fifteen pages, with what is contained on this page, contain a full, true, and complete transcript of the record of the judgment in the case therein named, as the same now remains of record in my office.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court at Jackson, this 3d day of February, A. D. 1844.

[SEAL.]

W. H. BROWN, *Clk.*

UNITED STATES OF AMERICA, *ss:*

To Charles Rice, and Mary his wife, and Martha Phipps, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be held at Washington, on the second Monday in January next, pursuant to a writ of error, filed in the clerk's office of the circuit court of the United States for the ninth circuit and district of Mississippi, wherein the Agricultural Bank et al. are plaintiffs, and you are defendants in error, to shew cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Samuel J. Gholson, one of the judges of the circuit court of the United States for the district of Mississippi, this ninth day of November, in the year of our Lord one thousand eight hundred and forty-three, and in the 68th year of the independence of the United States.

[SEAL.]

S. J. GHOLSON.

Service acknowledged, Nov'r 10th, 1843.

S. S. PRENTISS,
Att'y for def'ts in error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the judges of the circuit court of the United States, for the southern district of Mississippi, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between Charles Rice, and Mary Rice his wife, and Martha Phipps, plaintiffs, and the Agricultural Bank of Mississippi et al., defendants, a manifest error hath happened to

the great damage of the said defendants, as by their complaint appears:

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in his behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of January next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the second Monday of January, in the year [SEAL.] of our Lord one thousand eight hundred and forty-three, and of the independence of the United States the 67th.

Issued the 10th day of November, 1843.

W. H. BROWN,
Cl'k circuit ct. U. S. so. dist. Miss.

Filed, 26 February, 1844.